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For the urgent attention of: Right Hon Alistair Burt MP

27 September 2017

Dear Mr. Burt,

Urgent: Israel moves to advance forcible transfer of two Palestinian villages in the occupied West Bank

As lawyers committed to the protection and promotion of Palestinian human rights, we write to express serious concern about recently announced plans by the Israeli government to demolish two West Bank villages, Khan Al-Ahmar and Susiya, entailing the forcible transfer of their residents.

From a international criminal / humanitarian law perspective, the gravity of committing the offence of forcible transfer is that it amounts to a war crime under both the Geneva Convention and the Rome Statute for the International Criminal Court. We accordingly urge the UK government to take immediate steps to condemn this planned commission of a serious international crime and ensure respect for the rule of law.

The planned actions of the Israeli government would also have egregious results from a human rights perspective. For Palestinian residents of these communities, the gross violation of the right to adequate housing with its grave repercussions is a daily threat, with no apparent access to effective recourse or remedy.

In respect of Khan Al-Ahmar, an Israeli High Court hearing was due to take place on 25 September 2017, but a decision was postponed for four months. We understand that the residents of Khan Al-Ahmar were informed on 13 September that they would have no other option than to move to a site referred to as “al-Jabal West”, which is located next to the Abu Dis garbage dump.

Khan Al-Ahmar is home to around 32 Palestinian families comprising 173 persons. The petition for its demolition, brought by residents of an illegal settlement, also calls for the destruction of a school where 170 children of 6 – 14 years of age are taught. The school is one of 55 in Area C of the occupied West Bank that is subject to a demolition order, in response to which the EU has issued a demarche against such attempts. This is concerning both in and of



itself and as part of a pattern, given the destruction of the kindergarten at Jabal Al-Baba on 21 August and of the school in Jubbet Adh-Dibh on 22 August.

An Israeli High Court hearing regarding Susiya is scheduled for 1 October. This village is home to 200 Palestinians, many of whom can trace and document their occupancy to before the creation of the state of Israel. Attempts to transfer this population to make way for settlement expansion have been longstanding: large scale demolitions took place in 2001 and again in 2011, and the High Court ordered a further demolition in May 2015.

Both Khan Al-Ahmar and Susiya are described as ‘illegal’ by Israel because of the lack of permission for their structures. However, their residents are forced to build without permits because these are systematically denied. If either court hearing authorises demolitions, these could go ahead immediately.

The Israeli human rights group, B’Tselem, has described the proposals as ‘virtually unprecedented’ since the occupation began in 1967.

Violations of international humanitarian / criminal law

As both villages are in the occupied West Bank, their residents have the status of a protected population under the Geneva Conventions. Article 49 of the Fourth Geneva Convention prohibits forcible transfer for any reasons. Pursuant to Article 147 of the Fourth Geneva Convention, unlawful transfer of protected persons amounts to a grave breach of international humanitarian law, and accordingly a war crime entailing individual criminal responsibility for all persons involved with its implementation, including government officials.

Under Article 49, evacuations are only permitted where required by the security of the population or imperative military reasons. This is not the case here, as the proposed demolitions appear to relate to building plans, the expansion of settlements and the establishment of a link between Ma’ale Adumim and Jerusalem. Furthermore, Israel has specifically referred to the lack of permits for buildings in the villages in its purported justification for its proposed actions, which underlines the fact that they are not based on military or security grounds.

Article 8 (2) (a) (vii) of the Rome Statute of the International Criminal Court provides that unlawful transfer is a war crime. Under the Rome Statute, “forcible transfer of population” is defined as “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.” We consider the Israeli government announced plans for the residents of Khan Al-Ahmar and Susiya would clearly meet this description. It must be noted that the International Criminal Court is able to examine alleged war crimes committed on Palestinian territory since Palestine acceded to the Rome Statute in January 2015.

Violations of international human rights law



Article 11 of the International Covenant on Economic, Social and Cultural Rights, which Israel has ratified, requires State parties to “recognise the right of everyone to an adequate standard of living for himself and his family, including adequate... housing”. As an occupying power, Israel has to protect the private property in the occupied West Bank and further to refrain from taking any action that would violate the right to adequate housing of the Palestinian population.

Israel has also ratified the UN Convention of the Rights of the Child, which includes, at Article 27, the requirement to protect children in terms of their standard of living, and to seek to ensure that this standard is adequate with respect to the child’s physical, mental, spiritual, moral and social development. It further adds that State Parties are responsible for taking appropriate measures to provide assistance in respect to housing.

The actions of the Israeli government in planning to forcibly remove children and their parents from their homes and accordingly disrupt families' livelihoods very likely violate these rights. Both conventions are applicable to the population of the occupied West Bank.

Urgent intervention required by the British government

In light of the grave situation described above, we would ask that you consider taking the following steps:

1. Make a public statement unequivocally calling on Israel to a) cancel all demolition orders and forcible transfer plans, b) halt the destruction of schools, and c) halt the expansion of illegal settlements.
2. To use precise terminology expressly referring to “forcible transfer” in its public statements and private dialogue with the Israeli Government on this issue.
3. Condemn the application of discriminatory planning laws by Israeli authorities and make explicit reference to their severe impact on the human rights of Palestinians.
4. Urge the Israeli government, both publicly and through diplomatic pressure, to respect international human rights and humanitarian law.
5. Provide support for investigations and / or observing teams to document the specific human rights impacts and apparent criminal offences directly linked to settlement expansion and demolitions so as to provide an effective deterrent against their commission.

We would be grateful for your careful consideration of this urgent request and for your reply.

Yours sincerely,

Tareq Shrourou (Director) and Natalie Sedacca
Lawyers for Palestinian Human Rights

CC:

Mr. Boris Johnson MP, UK Foreign Secretary